

REMARKS/ARGUMENTS

Claims 40-42 and 44 are currently pending in this application. Claims 1-18 and 30-32 stand withdrawn. Claims 19-29, 33-39, 43 and 45-47 are cancelled. Claim 40 has been amended. Reconsideration of the rejection of this application in view of the above amendments and the following remarks is respectfully requested.

Claim Rejections - 35 U.S.C. §102(b)

Claims 40-42 and 44 stand rejected under 35 U.S.C. §102(b) as being anticipated by Long et al (4,870,946). Reconsideration of this rejection is respectfully requested in view of the following comments.

Claim 40, the only independent claim pending in the application, recites a blade-guarded assembly for use in a rotary trimmer comprising a cutting blade having a plurality of apertures. A hub is connected to the cutting blade via the plurality of apertures. A blade guard secured to the hub and forms the blade-guard assembly with the cutting blade. The blade guard covers the cutting blade such that a portion of the cutting blade is exposed for cutting. The blade guard, cutting blade and the hub are a unitary structure so that the blade-guard assembly is removable from, and placeable on, the rotary trimmer as a unit, without the cutting blade being disconnected from the hub and without the hub being disconnected from the blade guard to provide the rotary trimmer with a new cutting blade.

The claim sets forth that the blade-guard assembly is a unitary structure comprising the blade guard, the hub and the cutting blade that together form a unit. The blade-guard covers the cutting blade such that a portion of the blade is exposed for cutting. Thus, a part of the blade is unexposed. This unit is removable from, and placeable on, the rotary trimmer without the cutting blade

being disconnected from the blade guard or the hub. The assembly permits easy handling and replacement of a blade on the rotary trimmer.

The Examiner has cited the Long reference in connection with claim 40 as showing a blade-guard assembly comprising a cutting blade 14 having a plurality of apertures, a hub 16, 23 and a blade guard 20.

As stated in *Therasense, Inc. v. Becton, Dickinson & Co.*, 593 F.3d 1325, 93 USPQ2d 141481 (Fed. Cir. 2010):

The way in which the elements are arranged or combined in the claim must itself be disclosed, either expressly or inherently, in an anticipatory reference. "Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim." *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983). The requirement that the prior art elements themselves be "arranged as in the claim" means that claims cannot be "treated...as mere catalogs of separate parts, in disregard of the part-to-part relationships set forth in the claims and that give the claims their meaning." *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1459 (Fed. Cir. 1984). "[U]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. §102." *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008) (emphasis added).

It is submitted that the Long reference does not satisfy the criteria for anticipation as set forth in the above citation. In the arrangement shown in the Long et al reference, the hub assembly 10 includes an inner hub 16 and an inner

plate 23 mounted on a shaft 12. A collar 25 is fitted over the inner hub 16. The blade 14 is affixed to inner plate 23 by means of screws 18 or by a center screw 22 when the outer plate 20 is used. The hub is attached to the shaft by the screw 22 or by a shorter screw at 42 when the outer plate is not used. What the examiner considers to be a blade guard 20 is simply an outer plate attached to the hub assembly 10. This plate does not function as a blade guard as claimed since the entire blade is exposed for cutting when the plate is used.

Additionally, the hub, the blade and "blade guard" are not removed from the tool as a unit without the blade and hub being separated from the blade guard. As specifically stated in the Long et al reference, column 5, lines 15-17, if it is desired to replace the blade, the screw 22 is removed along with the outer plate 20. The hub 10 is not removed nor is it intended to be replaced when replacing the blade. Additionally when the screw 22 is removed, the "blade guard" 20 and blade are separate and no longer a unit.

Thus as mentioned above, the device of the Long et al reference does not have each and every element as claimed, nor does it have all the elements of the claimed invention arranged in the same way as recited in the claim. The elements of the Long et al invention are arranged in a completely different manner than that set forth in the claims and, accordingly, the Long reference does not anticipate the claimed subject matter. Therefore, claim 40 and its dependent claims 40-42 and 44 are patentable over the Long et al reference.

Claims 40-42 were rejected under 35 U.S.C. §102(b) as being anticipated by Schulz et al (5,765,289). Reconsideration of this rejection in view of the newly submitted claims is respectfully requested.

The Examiner maintains that the Schulz et al reference teaches a blade-guard assembly for a rotary trimmer comprising a cutting blade 22 having a plurality of apertures, a hub 32, and blade guard 42 secured to the hub and forming a blade guard assembly. The Examiner maintains that the three small

"apertures" on the circumference of the big central aperture are the same as the apertures referred to in the claim.

In the Shulz et al device, the blade is attached to the head 16 of the cutter 10 by means of a headed shaft 32 that extends through the guard 42, cutting blade 22 and an aperture in the head 16 of the cutter 10. The headed shaft is retained in place by a retainer nut 38. As can clearly be seen in Fig. 5 of the Shulz et al reference, in order for the blade to be removed, the retainer nut 38 must be removed from the shaft 32, the shaft 32 and guard removed from the body of the cutter 16 and then the blade removed by itself. There is no disclosure of a blade, hub and blade guard being removable from, and replaceable on, the cutter as a unit to change the blade. The blade guard and shaft of the Shulz et al device are not meant to be replaceable as they are an integral part of the cutter.

In the Shulz et al reference, what is considered to be the blade guard, hub and blade are not removable from, and placeable on, the cutter as a unitary structure without the blade being disconnected from the hub and without the hub being disconnected from the blade guard. As shown in Fig. 5, when the shaft 32 is removed from the cutter, the blade 24 is disconnected from the guard 42 and hub (shaft 32).

Additionally, what the examiner considers to be a plurality of apertures is merely part of the shape of the single central aperture. Thus, there is not a plurality of apertures as claimed. In addition, the U-shaped portion of the central aperture does not cooperate in anyway with the shaft (hub) as claimed.

As the Schulz et al reference does not show or disclose all the elements of the claimed invention arranged as in claim 40, this reference does not meet the criteria for anticipation as set forth in *Therasense, Inc.* quoted above and cannot be held to anticipate the claim. Accordingly, claim 40, and its dependent claims 41 and 42 are patentable over the Schulz et al reference.

Claim Rejections - 35 U.S.C. §103

Claims 40-42 and 44 were rejected under 35 U.S.C. §103(a) as being unpatentable over Matthai et al (5,702,415) in view of Roberts (436,804). The Examiner takes the position that Matthai et al teaches a blade-guard assembly comprising a cutting blade 9 having a plurality of apertures, a hub connected to the cutting blade via the plurality of apertures, and a blade guard 86. However, these elements are not connected together to function as a unitary structure for removal and replacement of a blade. As the Examiner points out, what is considered to be a blade-guard assembly of the Matthai et al is not removable from and placeable on the rotary trimmer as a unit.

The Examiner cites Roberts as teaching a blade guard assembly (k) being removable from and placeable on a rotary trimmer as a unit so that a plurality of blade guard assemblies can be used with the rotary trimmer. The Examiner refers specifically to Figure 5 of the Roberts reference. The Examiner contends that it would have been obvious to one skilled in the art at the time the invention was made to make blade guard assembly in Matthai to be removable from and placeable on a rotary trimmer as a unit as taught by Robert so that a plurality of blade guard assemblies can be used with the rotary trimmer.

In the arrangement in the Matthai et al reference, the blade 9 is inserted by itself in the chuck 12 between a cap and the top of a cup washer 60. During the entire insertion process, as well as the removal process, the blade is not connected to any type of blade guard. The structure 86 in the Matthai et al reference that the Examiner considers to be the blade guard is the top of a cap 80 that is secured to the top of the housing 13 of the hand piece before the installation of the blade. The cap is not intended to be removed with the blade when it is desired to change the blade. The cap remains attached to the hand piece during removal and installation of the blade. (See Fig. 1) The Examiner

considers the chuck of the hand piece of the Matthai et al device to be the hub as claimed. However, this chuck is intended to remain a part of the hand tool when the blade is removed. This structure is not removable with the blade. Thus, Matthai et al has no teaching or suggestion of a removable unitary blade, hub and blade guard structure.

Referring to the Roberts patent, the part (k) referred to by the Examiner as a blade-guard assembly is a sectional saw that projects from the end of a conical case or holder k'. There is no blade guard or hub in the device of the Robert patent shown in Figure 5. The blade is uncovered.

The purpose of the arrangement of the device in the Roberts patent is to provide for the interchangeably of tools having distinct and separate purposes. There is no suggestion in the Roberts patent of providing a unitary blade-guard assembly comprising a blade, blade guard and hub that can be removed from, and replaced in, a rotary trimmer as a unit to change the blade. Thus there is no teaching in the Roberts patent that could realistically be applied to the Matthai et al disclosure that would result in a unitary blade-guard assembly as claimed.

In addition, in order to incorporate the "teaching" of the Roberts patent into the Matthai et al device by making the upper portion of the Matthai et al device removable as indicated by the Examiner in the Figure shown on page 7 of the Office Action., one would have to slice off the upper potion of the tool across the neck of the housing 13. This is not realistic and certainly would not be obvious to one of ordinary skill in the art.

As mentioned above, not only does the Robert et al patent not provide for the changing of the blade, but also, its teaching of providing interchangeability of distinct tools is not applicable to the Matthai et al device. The Matthai et al device is a one purpose tool. Therefore, the combination of the Matthai et al and Roberts patent, as proposed by the Examiner, is not warranted. Further, since neither of the references disclose a removable unitary blade-guard assembly comprising a blade, hub and blade guard, any proposed combination of the

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Matthai et al and Roberts disclosures would not result in the claimed subject matter. Claims 40-42 and 44 are patentable over the proposed combination of Matthai et al and Roberts.

CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that the claims now pending in this application, patentably define over the prior art taken alone or in any possible combination. Favorable consideration of this application is earnestly solicited.

Respectfully Submitted,

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